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BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

<sup>L.</sup>  
Clara Stinnett, ✓  
CLAIMANT

13-0312

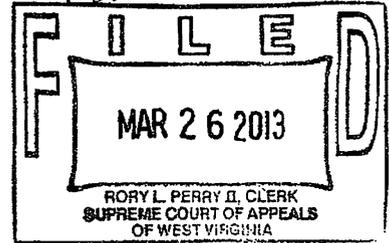
v.

JCN  
OOJ10#: 990024403 ✓

appeal no. 2049625

WV Department of Corrections, ✓  
EMPLOYER

And  
*West Virginia Office*  
The Insurance Commission of West  
Virginia in its capacity as administrator of  
The Old Fund



order date: 2/25/13

CLAIMANT'S PETITION FOR APPEAL

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## STATEMENT OF THE CASE

This the appeal of the claimant in support of her claim for additional permanent partial disability benefits. The claimant suffered an injury to her wrist in 1998. She was subsequently awarded a 22 per cent permanent partial disability. Thereafter, the Commissioner approved medical treatment for her back, as a compensable injury. In 2005, the claimant's physician requested authorization for surgical fusion of her back. The request was denied, that decision was appealed to Office of Judges, which affirmed the denial. The Workers Compensation Board of Review affirmed the denial and that decision was appealed to the Supreme Court. Ultimately, the Supreme Court reversed the denial and remanded the case for medical treatment. The Claimant ultimately had surgery in 2010. Thereafter, the claimant petitioned for permanent partial impairment based on her back condition. That petition was denied based on the "five year" rule, which affirmed by the OOJ and the Board of Review. The claimant contends that she had not received an award for her back and therefore the five year limitation had not begun to run, and in the alternative that since her protests and appeals were pending for 5 years before she had the surgery, the time limit should not apply.

## ISSUE FOR APPEAL

Whether the five year limit on reopening bars the claimant from reopening for additional permanent partial disability following surgery where a request for the surgery was denied and the subsequent appeals delayed the surgery more than five years after the request;

Whether, in the alternative, the period of time to reopen for permanent partial disability is equitably tolled during the time for appeal, since the claimant had not

reached maximum degree of improvement until after recovering from her surgery, and therefore could not be evaluated for permanent partial disability;

Whether a back injury is a progressive condition, such that the date of beginning of the five year period for reopening begins on the date of the Third Party Administrator's order acknowledging authorization by the Supreme Court for additional surgery (the date of the last "award.")

#### TABLE OF AUTHORITIES

W. Va. Code 23-4-7

W. Va. Code 23-4-7a(c)

West Virginia Code 23-4-16 (a)(2)

W. Va. Code 23-5-1(b)(1)

*Meadows v. Lewis*, 307 SE 2d 625, at 638.

*Bailey v SWCC et al*, 296 S.E.2d. 901 (1982).

*Buzzard v West Virginia Office of Insurance Commissioner*, No. 10-433 March 29, 2012.

*Kuhns v West Virginia Office of Insurance Commissioner*, No. 11-0026 July 26, 2012.

*Burchfield v West Virginia Office of Insurance Commissioner*, No. 11-0025 July 26, 2012.

*Harris v West Virginia Office of Insurance Commissioner*, No. 101160, January 19, 2012.

*Coulter v West Virginia Office of Insurance Commissioner*, No. 100836 June 9, 2011.

#### STATEMENT OF FACTS

This is the brief of the claimant in support of her appeal. The claimant sought reopening for additional permanent partial disability after she had surgery to correct an injury to her back. Appendix, page 78. The Third Party Administrator contends that the

reopening petition is barred by the five year statute. The claimant contends that her condition was progressive, that she had not reached her maximum degree of improvement until after her surgery and that the reopening was not time barred.

The dates of decisions are as follows:

August 31, 1998, date of injury; Appendix: page 1, 99.

September 22, 1998 fractured ulnar acknowledged as a compensable condition: Appendix, page 102.

January 21, 2000 22% awarded; Appendix, page 29.

December 10, 2001 Workers Compensation authorizes ulnar facet joint injection and sacroiliac joint injection.; Appendix page 32.

January 8, 2002 Order closing the claim for permanent partial disability; Appendix, page 48, 125.

March 15, 2002, Dr. Kim request for medication is authorized; Appendix page 50.

January 14, 2005 Commissioner rules lumbar sprain/strain compensable; Appendix, page 128.

August 22, 2005 Dr. Schmidt requests posterior lumbar interbody fusion; Appendix, page 53, 55.

August 30, 2005 authorization denied; Appendix, page 55.

April 27, 2006 OoJ affirmed denial; Appendix, page 75, 152.

April 13, 2007 Board of Review affirmed; Appendix, page 150.

July 22, 2009, Supreme Court reverses Order denying back surgery: Appendix, page 60.

August 7, 2009, TPA authorized Lumbar Interbody Fusion/Sextant Decompression; Appendix page 67.

June 22, 2010 back fusion surgery performed; Appendix, page 69.

July 28, 2011 request for additional permanent partial disability denied; Appendix, page 71.

February 25, 2013 Board of Review affirms denial, Appendix page 185.

The claimant was injured on August 31, 1998. By Order dated September 22, 1998, the claimant's ulnar fracture was acknowledged as a compensable condition.<sup>1</sup> Appendix: page 1, 99. By Order dated January 14, 2005, the former Workers Compensation Division approved lumbar strain/sprain as an approved condition for this claim. Appendix, page 128. The claimant's physician requested authority for posterior interbody fusion. Appendix, page 53, 55. This request was denied on August 30, 2005. Appendix, page 55. The claimant protested and by Order dated April 27, 2006, the protest was denied. That decision described the medical record this way:

This claim comes before the Office of Judges on the claimant's protest to the Claims Administrator's Order, which denied the request from Dr. Schmidt for surgery consisting of a posterior lumbar interbody. The Commission denied the claim and stated while the proposed surgery is appropriate, the claimant's current symptoms are a result of pre-existing degenerative changes, and should not be reimbursed by the Commission and per Title 85-20-21 and 85-20-37.8.

**The claimant submitted the report of Dr. Kim, in which he stated the claimant has severe degenerative disc disease in her spine, and she has failed all conservative therapies, including physical therapy, lumbar laminectomy, and numerous injections along with different types of pain medications without adequate relief. Dr. Kim stated he does not believe the claimant's lower back problem will ever get better.**

The claimant, in a letter, stated she has received physical therapy,

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<sup>1</sup> The claimant suffered a severe injury to her wrist which required first closed reduction and then open reduction with bone transplant. See Report of Dr. Guberman.

injections and a pain patch, which have not helped her back pain. The claimant stated Dr. Schmidt has suggested two types of surgery, which have been denied, and she would like the Decision reversed. The claimant stated her pain has been unbearable and she has no quality of life because of intense back pain. The claimant submitted the report of Dr. John Schmidt, in which he stated the claimant has had back pain for several years, but it was exacerbated in 1998 after she fell into a vehicle while working. Dr. Schmidt stated the claimant had a lumbar discectomy by Dr. Velasquez in the 70s. Dr. Schmidt stated he had an extended conversation with the claimant regarding the natural history of degenerative spondylitic arthropathy and spondylolisthesis with lateral recess narrowing at L-5. Dr. Schmidt stated alternatives in management including the possibility of decompression laminectomy, possible discectomy and fusion were discussed with the claimant along with the risks of surgery. Dr. Schmidt stated he will see the claimant again to schedule surgery if requested, and if she is not felt to be a good candidate by Dr. Deer for a spinal cord stimulator. Appendix, page 55.

The record includes office notes from Dr. Schmidt, dated November 21, 2005, which noted that the claimant "had back pain for several years but it was exacerbated in 1998 after she fell into a vehicle while walking. The other injuries she had have improved but the back and hip pain had worsened." Appendix, page 52.

This OOI decision was appealed to the Appeal Board, then to the Supreme Court of Appeals. The Supreme Court by Order entered June 29, 2009, reversed and remanded the claim for entry of an order authorizing the Surgery. Appendix page 60. By Order dated August 3, 2009, the Workers Compensation Board of Review (formerly the Appeal Board) remanded the claim to the Third Party Administrator. By Order dated August 7, 2009, the TPA authorized the surgery:

In accordance with this order we are reversing the Order from The Board of Review dated 4/18/07 which denied surgery and authorizing a LUMBAR INTERBODY FUSION/SEXTANT DECOMPRESSION that was requested on 8/26/2005 by Dr. Schmidt. Appendix, page 64.

The record will reflect that the surgery which was first requested in August, 2005, was performed in 2010.<sup>2</sup>

West Virginia Code 23-4-16 (a)(2) provides:

**Except as stated below, in any claim in which an award of permanent disability was made, any request must be made within five years of the date of the initial award. During that time period, only two requests may be filed. With regard to those occupational diseases, including occupational pneumoconiosis, which are medically recognized as progressive in nature, if any such request is granted by the commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, a new five-year period begins upon the date of the subsequent award. With the advice of the health care advisory panel, the executive director and the board of managers shall by rule designate those progressive diseases which are customarily the subject of claims.**

The claimant suffered a condition which by Dr. Kim's records was not responsive to conservative medical treatment. She had not reached maximum medical improvement for her back injury until the time of the surgery. The TPA designated her back condition as a compensable condition in 2005. In the first instance, her request for permanent partial disability benefits following the surgery falls within the application of 23-4-16(a)(2) in that it pertains to a medically progressive condition. Indeed, it was not until 2005 that the Workers Compensation Division ruled that lumber strain/sprain was compensable.

The claimant contends that her condition is a progressive one. The issue of progression is not one of the whether the claimant suffered an "injury." The issue is whether the injury suffered lead to a medical condition which was progressive. Traumatic back injuries are indeed progressive conditions in some patients, since over time the condition worsens. The claimant will note that despite the directive of the

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<sup>2</sup> The record will reflect that the surgery cost in excess of \$100,000.00. Appendix page 70.

statute regarding progressive conditions, the Commissioner has not promulgated the Regulations contemplated by the statute.

A further ground for this appeal is that the claim for medical treatment was pending from August 25, 2005, until May 11, 2010. By Order dated January 8, 2002, the Workers' Compensation Division closed the claim for further Permanent Partial Disability benefits. Appendix, page 48, 125. The five year period for reopening for this progressive condition, if indeed it was running, ran during the pendency of her claim. The only reasonable application of the statute in this situation is the claim was tolled during the pendency of the appeal. In the absence of surgery, which was not authorized finally until 2010, the claimant could not obtain permanent partial disability benefits. She had not attained a maximum degree of improvement from her surgery. It was only after that date that she could as a practical matter obtain a permanent partial disability.<sup>3</sup> Further, to deny her permanent partial benefits when she had no control over the pace of the appeals and legal process is in effect an unfair tax to her. She is being deprived of her lawful benefits because of the delay of the legal process, which is completely beyond her control.

The claimant's record designation included the following:

The narrative/authorization request of the claimant's attending Pain Management Physician, Dr. Christopher K. Kim, dated June 6, 2000 advising the Claim Administrator of his treatment of the claimant for chronic lower back pain. Dr. Kim noted a history of failed back surgery syndrome; and, the claimant's her chief complaint of bilateral sacroiliac joint pain. Dr. Kim requested authorization for radio frequency ablation of the sacroiliac joints to improve her lower back pain, noting that the claimant had received excellent pain relief from diagnostic sacroiliac joint injections.

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<sup>3</sup> W. Va. Code 23-4-7a(c);

A treatment note from Dr. Christopher Kim, dated August 8, 2000, documenting that the Claim Administrator had denied authorization for radio frequency ablation of the sacroiliac joints. Dr. Kim noted that the claimant had received good pain relief in the past with bilateral SI joint injections; and, accordingly his treatment plan was to have her return for a series of three more bilateral S I joint injections and also advising that he would again renew his request for radio frequency ablation of the bilateral SI joints for prolonged and improved pain relief.

A narrative addressed to the claimant from Dr. Christopher Kim dated May 1, 2001, confirming that the claimant had "severe degenerative disc disease in your spine and so far you have failed all conservative therapies including physical therapy, lumbar laminectomy, and numerous injections without adequate relief. You have also been through a trial of different types of pain medication without much relief. At this time I believe you are permanently disabled and I suggest you go through Social Security disability. I do not believe your lower back problem will ever get better and you will continue to live and tolerate the pain as much as you can. And again, I believe you are totally disabled and I do not believe you'll be able to return to any type of work that requires any lifting, twisting or bending type of motion." Appendix page 54-59.

An Order from the West Virginia Supreme Court of Appeals dated January 29, 2009, in turn, reversed a final Order of the Worker's Compensation Board of Review dated April 18, 2007, and directing that the Board of Review enter an Order authorizing the above referenced surgery by Dr. John H. Schmidt. In confirmation of the Order of the West Virginia Supreme Court of Appeals, the Worker's Compensation Board of Review, per date of August 3, 2009, remanded the claim to the Claim Administrator to comply with the Supreme Court's decision.

The issue in litigation is whether the claimant's reopening request of July 5, 2011, for additional consideration of permanent partial disability benefits secondary to the compensable injury of August 31, 1998, was submitted within the time limitations as set forth in W. Va. Code §23-4-16(a) (2) (2005). The claimant's counsel's closing argument of May 7, 2012, argues reversal of the Claim Administrator's Order of July 28, 2011,

asserting that " ... her request for permanent partial disability benefits following the surgery falls within the application of §23-4-16(a)(2)-- in that it pertains to a medically progressive condition," (p,3); and that the claimant's request for permanent partial disability benefits was submitted within five years from the date of her obtaining maximum medical improvement following authorized surgery in May of 2010. The claimant's request for surgery was initially made in August 25, 2005, and it was not until May of 2010 that the surgery was authorized in compliance with an Order of the West Virginia Supreme Court of Appeals dated January 29, 2009.

The OLJ summarized his opinion this way:

The claimant's closing argument asserts that the five-year statute of limitations was tolled during dependency of the litigation process which ultimately resulted in authorization for surgery per the Supreme Court's Order of July 29, 2009. The claimant's request for additional permanent partial disability benefits per her petition of July 5, 2011, would seem to constitute a consideration of permanent partial disability, for facts not previously considered in reference to her lumbar fusion surgery in May of 2010. However, the unambiguous and mandatory language of §23-4-16(a)(2) compels the conclusion that the Claim Administrator's Order of July 28, 2011, must be affirmed; as, the claimant's request for reopening consideration of further permanent partial disability benefits on or about July 5, 2011, was filed beyond the permissible five year statute of limitation established in §23-4-16(a)(2). Appendix Page .

The Supreme Court has summarized the purpose of the workers compensation system this way:

In his respected treatise, Professor Larson addresses the underlying social philosophy of workers' compensation systems.

The ultimate social philosophy behind the compensation liability is belief in the wisdom of providing, in the most efficient, most dignified, and most certain form, financial and medical benefits for the victims of work-connected injuries which an enlightened community would feel obliged to provide in any case in some less satisfactory form, and of allocating the

burden of these payments to the most appropriate source of payment, the consumer of the product.

A. Larson, *Workmen's Compensation* § 2.20 (Desk Ed.1980) (emphasis added).

This philosophy finds substance in our statutes establishing the West Virginia stateworkers' compensation system. For example, W.Va.Code § 23-5-3a (1981 Replacement Vol.) provides that it is the policy of our law that:

The rights of claimants for [workers'] compensation be determined as speedily and expeditiously as possible to the end that those incapacitated by injuries and the dependents of deceased [workers] may receive benefits as quickly as possible in view of the severe economic hardships which immediately befall the families of injured or deceased [workers].

Moreover, W.Va.Code § 23-4-7 (1981 Replacement Vol.) specifically declares that a "primary objective of the [workers'] compensation system established by this chapter [is] to provide benefits to an injured claimant promptly."<sup>4</sup>

Accordingly, we have consistently held in the past that one of the primary objectives of the Legislature in establishing the workers' compensation system is to provide prompt and fair compensation to injured workers, and that "[l]ong delays in processing claims for [workers'] compensation is not consistent with the declared policy of the Legislature to determine the rights of claimants as speedily and expeditiously as possible." Syllabus Point 1, *Workman v. State Workmen's Compensation Comm'r*, W.Va., 236 S.E.2d 236 (1977). See also *Mitchell v. State Workmen's Compensation Comm'r*, W.Va., 256 S.E.2d 1 (1979). *State ex rel. Conley v. Pennybacker*, 131 W.Va. 442, 48 S.E.2d 9 (1948); *Poccardi v. Ott*, 82 W.Va. 497, 96 S.E. 790 (1918). *Meadows v. Lewis*, 307 SE 2d 625, at 638.

A review of the case law is also relevant to this discussion. In 1982, this Court was confronted with the issue of whether workers compensation deadlines were jurisdictional or procedural. *Bailey v SWCC et al*, 296 S.E.2d. 901 (1982). The Court

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<sup>4</sup> The statute provides: **§23-4-7. Release of medical information to employer; legislative findings; effect of application for benefits; duty of employer.**

(a) The Legislature hereby finds and declares that two of the primary objectives of the workers' compensation system established by this chapter are to provide benefits to an injured claimant promptly and to effectuate his or her return to work at the earliest possible time;

held that workers compensation time limits were procedural and not jurisdictional. "Our holding today should not be considered a judicial declaration of open season on statutory time limitations-it is limited to the Workmen's Compensation Act. This statute, by its beneficent and remedial character, distinguishes itself from other statutes whose purpose is custodial or regulatory. The precise effect and literal application unarguably due most statutory provisions are inappropriate to the Workmen's Compensation program, since it does not create statutory rights, but rather replaces with statutory remedies the common law rights its beneficiaries are denied."

Following *Bailey*, the legislature amended a portion of the workers compensation statute to provide that certain time limits were in fact jurisdictional. However, the time limits amended pertained not to re-openings but to limitations on initial claims. Time limits on reopening are found in 23-4-16(2). 23-5-1(b)(1) provides only that protests must be filed within 60 days and that the deadline is jurisdictional:

(b) (1) Except with regard to interlocutory matters, upon making any decision, upon making or refusing to make any award or upon making any modification or change with respect to former findings or orders, as provided by section sixteen, article four of this chapter, the Insurance Commissioner, private carrier or self-insured employer, whichever is applicable, shall give notice, in writing, to the parties to the claim of its action. The notice shall state the time allowed for filing a protest to the finding. **The action of the Insurance Commissioner, private carrier or self-insured employer, whichever is applicable, is final unless the decision is protested within sixty days after the receipt of such decision unless a protest is filed within the sixty-day period, the finding or action is final. This time limitation is a condition of the right to litigate the finding or action and hence jurisdictional.** Any protest shall be filed with the Office of Judges with a copy served upon the parties to the claim, and other parties in accordance with the procedures set forth in sections eight and nine of this article. An employer may protest decisions incorporating findings made by the Occupational Pneumoconiosis Board, decisions made by the Insurance Commissioner acting as administrator of claims

involving funds created in article two-c of this chapter or decisions entered pursuant to subdivision (1), subsection (c), section seven-a, article four of this chapter.

However, there is no language that the time limits for reopening, i.e. the 5 year limit, is itself jurisdictional. The legislature amended 23-5-1 et seq. to make objections, protests and appeals jurisdictional. It has not made the time limits on applications for reopening jurisdictional. Therefore, *Bailey* still applies to issues like that one here, such that the Court has the ability to relieve the claimant of the burden of this unfair limitation on her case. Under *Bailey*, the time limit is procedural, and subject to the considerations consistent with the beneficent nature of the statute.

Recent memorandum decisions, while not offered for authority, do show that this Court will treat these deadlines differently based on the facts of the case:

*Buzzard v West Virginia Office of Insurance Commissioner*, No. 10-433 March 29, 2012 affirmed denial of reopening but the exact facts are not clear;

*Kuhns v West Virginia Office of Insurance Commissioner*, No. 11-0026 July 26, 2012 affirmed denial of reopening but the facts are not clear;

*Burchfield v West Virginia Office of Insurance Commissioner*, No. 11-0025 July 26, 2012, affirmed denial of reopening where basis was testimony of claimant without other evidence of reopening;

But see also:

*Harris v West Virginia Office of Insurance Commissioner*, No. 101160, January 19, 2012. "The fact that Mr. Harris' application occurred outside the statute of limitations does not defeat Mr. Harris' application for permanent and total disability."

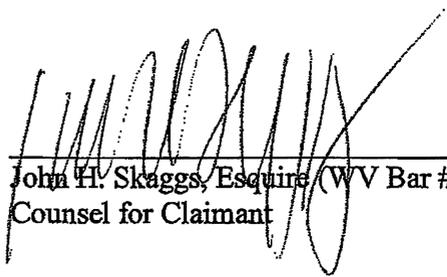
*Coulter v West Virginia Office of Insurance Commissioner*, No. 100836 June 9, 2011. The claimant could reopen for additional compensation for a “new” injury suffered during rehabilitation more than five years after the initial injury.

There is nothing in the code or regulations which provides that a claimant whose treatment is delayed by the administrative appeals process should find herself time barred due to the time taken to prosecute her appeal and obtain her treatment. The claimant here has been disabled for many years and the delay in treatment undoubtedly caused her unnecessary pain, discomfort and distress. It is not consistent with the purpose of the workers compensation system to deny her additional permanent partial disability awards. This outcome is unduly harsh.

#### CONCLUSION

The legislature in response to *Bailey* did not extend the jurisdictional status to time limits on reopening. Therefore, the Court can consider the entire circumstances of the claim consistently with the purpose of the statute. Here, the back was not a compensable condition until 2005. The claimant had to appeal to this Court to obtain surgery to her back, which was extensive. That process required nearly 5 years itself, and it was over five years from the time the back injury was ruled compensable until the claimant reached maximum degree of improvement from the surgery. There is ample reason to allow her to seek a permanent partial disability.

The claimant made her application for permanent partial disability benefits within five years of the date of her obtaining maximum improvement from surgery. The claim should be remanded for evaluation for a permanent partial disability award.



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John H. Skaggs, Esquire (WV Bar # 3432)  
Counsel for Claimant



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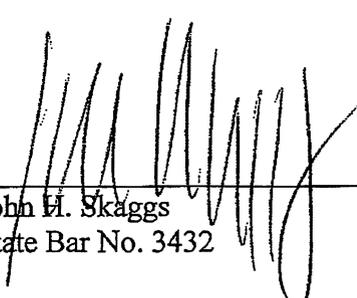
I, John H. Skaggs, do hereby certify that I have served the foregoing **CLAIMANTS PETITION FOR APPEAL AND NOTE IN SUPPORT THEREOF** upon the parties to this matter by deposition the true and correct copies in the regular United States Mail, postage prepaid and addressed as follows on this 25 day of March, 2013

Clara L. Stinnett  
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State Capitol Complex  
Charleston, WV 25305

West Virginia Office of the Insurance Commission  
The Old Fund  
Post Office Box 50541  
Charleston, WV 25305

Sedgwick CMS/OIC  
Attn: Debbie Bryant  
Post Office Box 14490  
Lexington, KY 40512

  
\_\_\_\_\_  
John H. Skaggs  
State Bar No. 3432

**SUPREME COURT OF APPEALS OF WEST VIRGINIA  
WORKERS' COMPENSATION DOCKETING STATEMENT**

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Petitioner: Clara L Stinnett Respondent: WV Department of Corrections  
 Counsel: John H. Skaggs Counsel: Benjamin F Yancey, III  
 Claim No.: 990024403 Workers' Compensation Appeal Board No.: 34685

Date of Injury/Last Exposure: 8/31/1998 Date Claim Filed: 2/19/2001  
 Date(s) of Workers' Compensation Division Order(s): September 22, 2012  
 Date of office of Judges Order: 8/31/2001  
 Date of Workers' Compensation Appeal Board Order Appealed from: 7/29/2009

**FILED**  
**MAR 26 2013**  
ROBYN PERRY II CLERK

CLAIMANT INFORMATION:	
Claimant's Name:	<u>Clara L Stinnett</u>
Nature of Injury:	<u>Personal Injury</u>
Age:	<u>67</u>
Education (highest):	<u>12 grade</u>
Occupation:	<u>State Employee</u>
No. of Years:	<u>1993-2000 retired</u>
Date of Last Employment:	<u>8/31/1998</u>

Other Claim Nos.: \_\_\_\_\_ Status: \_\_\_\_\_  
 (Attach a separate sheet if necessary)

Are there any related petitions currently pending before the Supreme Court?  Yes  No  
 (If yes, cite the case name and the manner in which it is related on a separate sheet.)

Are there any other petitions related to this claimant which have been decided by the Supreme Court?  Yes  No  
 (If yes, cite the case name, docket number, decision, and the manner in which it is related on a separate sheet.)

- Type of issue:
- |                                                           |                                                                        |                                                           |
|-----------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> TTD (Temporary Total Disability) | <input checked="" type="checkbox"/> PPD (Permanent Partial Disability) | <input type="checkbox"/> PTD (Permanent Total Disability) |
| <input type="checkbox"/> Medical Benefits                 | <input type="checkbox"/> Occupational Pneumoconiosis                   | <input type="checkbox"/> Occupational Hearing Loss        |
| <input type="checkbox"/> Occupational Disease             | <input type="checkbox"/> Death or Widow Benefits                       | <input type="checkbox"/> Other                            |

FOR SUPREME COURT USE ONLY	SUPERVISING JUSTICE'S VOTE	
I vote: GRANT [ ]	REFUSE [ ]	ORAL PRESENTATION [ ]
Signature: _____	Date: _____	
Comments: _____		

FOR SUPREME COURT USE ONLY	REVIEWING JUSTICE'S VOTE	
I vote: GRANT [ ]	REFUSE [ ]	ORAL PRESENTATION [ ]
Signature: _____	Date: _____	
Comments: _____		

Supreme Court of Appeals of West Virginia  
*Office of the Clerk*

RORY L. PERRY II, Clerk of Court  
State Capitol, Room E-317  
Charleston WV 25305

STATUTORY NOTICE of FILING of PETITION FOR APPEAL

March, 27, 2013

**Clara Stinnett v. WVOIC/WV Dept of Corrections**

Supreme Court No. 13-0312

Petition for Appeal Filed: March 26, 2013

**Board of Review Information**

Claim Number: 990024403

Order Date: February 25, 2013

Appeal Number: 2047625

Dear Interested Persons:

Statutory notice pursuant to W.Va Code 23-5-15 is hereby given that a petition for appeal from the final order of the Workers' Compensation Board of Review has been filed in the above-captioned case.

**In future correspondence or filings, please refer to the Supreme Court case number. DO NOT use the claimant's social security number on any papers filed with the Court.**

The Court has a mediation program for certain types of workers' compensation cases. You will be contacted if the Office of Counsel later determines that the case is appropriate for mediation.

The papers filed in this matter will be passed directly to the Court for consideration. You will be advised of the Court's decision to grant or refuse the petition for appeal by copy of an order.

Sincerely, RORY L. PERRY II, Clerk of Court

**NOTICE PROVIDED TO:** Workers' Compensation Commissioner and Workers' Compensation Board of Review  
*and to the following counsel of record and unrepresented entities, as indicated:*

**Counsel for Petitioner:**

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**Counsel for Respondent(s):**

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